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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,266	10/25/2001	Ihor A. Lys	C01104/70090 RFG	9692

23628 7590 05/05/2003

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BOSTON, MA 02210-2211

EXAMINER

PHILOGENE, HAISSA

ART UNIT	PAPER NUMBER
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2821

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,266

Applicant(s)

LYS ET AL.

Examiner

Haissa Philogene

Art Unit

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-- **Th MAILING DATE of this communication appears on th cover sh t with the correspond nce address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 35-38 is/are rejected.
- 7) ☒ Claim(s) 8-34 and 39-65 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,7,8.
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-7 and 35-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishiharada et al., Patent No. 6,030,108, cited by Applicant.

As per claim 1, Ishiharada discloses in Figs. 1, 3, 10 and 11 an apparatus comprising: a pool to contain a liquid W; at least one light source 1 or 81, 82, supported by the pool, to illuminate the liquid W; at least one sensor 88 to output at least one detection signal in response to a detectable condition from sound source 87; and at least one controller 89, coupled to the at least one light source (here 81, 82) and the at least one sensor 88, to control radiation output by the at least one light source based on the at least one detection signal (see Col.9, lines 48-54).

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As per claim 2, Ishiharada discloses the pool having a range of typical liquid levels of the liquid during use (see Fig.1), and the at least one light source 1 with its light-emission portion 2A adapted to be disposed below the range of typical liquid levels (as shown in Fig.1).

As per claim 3, Ishiharada discloses the claimed invention substantially as explained above. Further, Ishiharada discloses the at least one light source including at least incandescent lamp (see Col.17, lines 1-6) which inherently includes means for engaging mechanically and electrically a conventional light socket.

As per claim 4, Ishiharada further discloses a waterproof housing readable as an encapsulant within which the light source is disposed for protective purposes including protecting it from moisture (see also Col.18, lines 14-15).

As per claim 5, Ishiharada discloses the at least one light source includes at least one LED (see Col.17, lines 1 and 4).

As per claims 6 and 7, Ishiharada discloses in Fig.24 the at least one light source 265 including at least two differently colored light sources 272-275 (see Col.13, lines 5-7).

Note that Ishiharada discloses the light source capable of being LED (see Col.17, lines 1 and 6); said light sources producing different colors such as red, green, blue by selecting the light wavelengths or by using color filters. Note also that the LEDs as light sources are capable of providing these primary colors red, green and blue.

As per claims 35 and 36, Ishiharada discloses in Figs. 1, 3, 10 and 11 an apparatus comprising: at least one light source (1 or 11 or 81, 82) to illuminate a liquid W, said light source including at least two differently colored light sources 81, 82 capable of

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being LEDs (see Col.17, lines 1 and 4) to generate variable color radiation (blue and red); at least one sensor 88 to output at least one detection signal in response to a detectable condition from sound source 87; and at least one controller 89, coupled to the at least one light source (81, 82) and the at least one sensor 88, to control the variable color radiation generated by the at least one light source (81, 82) based on the at least one detection signal.

As per claim 37, Ishiharada discloses a method for illuminating a liquid W in a pool (see figs.1 and 3) comprising acts of: a) illuminating the liquid W in the pool with variable color radiation (red, blue) provided by the light sources (81, 82); and b) controlling the variable color radiation via controller 89 based on at least one detectable condition from sound source 87 detected by sensor 88 (see also fig.11).

As per claim 38, Ishiharada further discloses the act of controlling at least one of an intensity and a color of the variable color radiation based on the at least one detectable condition (see Col.9, lines 37-54).

Allowable Subject Matter

Claims 8-34 and 39-65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (703) 305-3485. The examiner can normally be reached on 6:30 A.M.-6:00 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (703) 308-4856. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7722 for regular communications and after Final communications. The fax number for the examiner is (703) 746-04054.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

hp
May 3, 2003

Haissa Philogene
Primary Examiner
A.U. 2821
Haissa Philogene